Effective April 1, 2016, Env-Dw 303 reads as follows:

PART Env-Dw 303 GROUNDWATER SOURCES OF BOTTLED WATER

Statutory Authority: RSA 485:3, XI

Env-Dw 303.01 Purpose. The purpose of these rules is to implement RSA 485:1, II(g) by establishing procedures and standards for the development and approval of new groundwater sources of water used in the production of bottled water.

Env-Dw 303.02 Applicability. These rules shall apply to new groundwater sources of water used in the production of bottled water.

Env-Dw 303.03 Definitions.

(a) "Artesian water" means "artesian water" as defined in 21 CFR 165.110(a)(2)(i), 4-1-15 edition, namely "water from a well tapping a confined aquifer in which the water level stands at some height above the top of the aquifer".

(b) "Borehole" means a hole dug, drilled, or bored into the earth.

(c) "Natural orifice" means an opening occurring naturally at the land surface, without any alteration of the land surface.

(d) "New source" means:

(1) A source installed or sited after April 5, 1999;

(2) A source installed or sited before April 5, 1999 that wants to increase the approved permitted production volume;

(3) A source previously approved by the department for which the approval has expired; or

(4) A source previously approved by the New Hampshire department of health and human services that has not obtained or maintained a facility license in accordance with He-P 2106.

(e) "Protected area" means a wellhead protection area for a groundwater source of bottled water.

(f) "Spring water" means "spring water" as defined in 21 CFR 165.110(a)(2)(vi), 4-1-15 edition, namely "water derived from an underground formation from which water flows naturally to the surface of the earth".

(g) "Stratum" means a geologic formation or formations, or a discontinuity in or between geologic formations, which may in some cases serve as a source of water or as a pathway for groundwater to reach the surface.

(h) "Well water" means water derived from a groundwater source that is neither artesian water nor spring water.

(i) "Wellhead" means the structure through which, and location where, a groundwater source of bottled water reaches the land surface, such as the well casing, a spring collection box, or the natural orifice of a spring.

Env-Dw 303.04 Pre-Approval of Groundwater Source of Bottled Water Required.

(a) No person shall use a groundwater source to produce bottled water without first obtaining approval of the source from the department in accordance with these rules.

(b) Any person proposing a withdrawal of groundwater to produce bottled water that would exceed the threshold established in RSA 485-C:21 for large groundwater withdrawals shall also obtain approval of the large groundwater withdrawal pursuant to RSA 485-C:21 and Env-Wq 403.

Env-Dw 303.05 Obtaining Approval for a New Groundwater Source of Bottled Water.

(a) Any person seeking approval for a new groundwater source for bottled water that would not qualify as a large groundwater withdrawal under RSA 485-C:21 shall apply for approval of the source by submitting to the department:

(1) The cover page specified in Env-Dw 303.06;

(2) The application information required by Env-Dw 303.07;

(3) The source classification statement required by Env-Dw 303.19;

(4) A water conservation plan prepared in accordance with Env-Wq 2101; and

(5) If applicable, a copy of the well completion report that demonstrates the well complies with applicable standards, currently We 100-800 as adopted by the New Hampshire water well board pursuant to RSA 482-B, subject to any modifications in Env-Dw 303.24(a)(2).

(b) Any person seeking approval for a new groundwater source for bottled water that would qualify as a large groundwater withdrawal under RSA 485-C:21 shall apply for approval of the source by submitting to the department the information required by (a), above, and the application required by Env-Wq 403.

(c) Any applicant may request a pre-test conference as described in Env-Dw 303.13.

Env-Dw 303.06 Application: Cover Page.

(a) The cover page required by Env-Dw 303.05(a)(1) shall contain the following:

(1) The applicant's name, mailing address, daytime telephone number including area code, and website URL, if any;

(2) The name, daytime telephone number including area code, and email address, if any, of an individual authorized by the applicant to represent the applicant for purposes of the department's review of the application;

(3) The location of the proposed source, by tax map and lot number; and

(4) The volume of the proposed withdrawal.

(b) If the applicant is an individual, the applicant shall sign and date the application.

(c) If the applicant is other than an individual, the applicant shall authorize an official of the applicant to sign the application, and the authorized individual shall sign and date the application and print or type his or her name and title.

(d) A signature provided under (b) or (c), above, shall constitute certification that:

(1) The information contained in or otherwise submitted with the application is true, complete, and not misleading to the best of the applicant's knowledge and belief;

(2) The applicant understands that:

a. The submission of false, incomplete, or misleading information is grounds for:

1. Not approving the application;

2. Revoking any approval or request that is granted based on the information;

3. Referring the matter to the joint board for potential action against the professional license held by the signer; and

4. If the signer is acting as or on behalf of a listed engineer as defined in Env-C 502.10, debarring the listed engineer from the roster; and

b. He or she is subject to the penalties specified in New Hampshire law, currently RSA 641:3, for making unsworn false statements; and

(3) The applicant agrees to comply with all applicable rules and conditions of the approval, if issued.

Env-Dw 303.07 Application: Required Information. The applicant for a new groundwater source for bottled water shall provide the following pursuant to Env-Dw 303.05(a)(2):

(a) A description of the source location and a delineation of the location on a USGS map demonstrating that the wellhead for the source meets the requirements in Env-Dw 303.08, together with:

(1) The location of the 100-year flood elevation, the flood plain location, and all surface waters within 100 feet of the wellhead; and

(2) A vulnerability assessment for potential impacts from natural hazards, as necessary based on the source's location relative to surrounding topographic and hydrologic features that would pose a reasonable threat to the wellhead's structural integrity or functionality, or both;

(b) A description of the sanitary protective area as specified in Env-Dw 303.09;

(c) A conceptual hydrogeologic model of the source and its protected area developed in accordance with Env-Dw 303.10;

(d) A preliminary estimate of the protected area in accordance with Env-Dw 303.11 that has been refined in accordance with Env-Dw 303.20 after the source evaluation required by Env-Dw 303.14;

(e) A preliminary contamination source and water resource and use inventory and the map required by Env-Dw 303.12 that has been refined in accordance with Env-Dw 303.22 after completion of the source evaluation required by Env-Dw 303.14;

(f) A description of the source evaluation conducted as required by Env-Dw 303.14;

(g) A proposed permitted production volume in accordance with Env-Dw 303.17;

(h) A description of the source protection program developed in accordance with Env-Dw 303.21; and

(i) A description of the contamination control program for known contamination sources within the protected area developed as specified in Env-Dw 303.23.

Env-Dw 303.08 Wellhead Location.

(a) Subject to (b), below, the wellhead of a new groundwater source of bottled water shall be at least 50 feet from surface waters.

(b) The wellhead for a proposed source that is a spring may be within 50 feet of the spring if the applicant demonstrates that surface water generated from the spring does not infiltrate and recharge the wellhead during the source evaluation required by Env-Dw 303.14.

(c) The wellhead shall not be subject to flooding at the 100-year recurrence interval. The applicant may fill to elevate a wellhead and pumping station for flood protection purposes, provided that all required permits for placing of fill within wetlands and flood plains have been obtained.

(d) Where spring water is collected with the use of external force, no filling of the spring's natural orifice shall be allowed.

Env-Dw 303.09 Sanitary Protective Area.

(a) The sanitary protective area for any source shall be determined as specified in Env-Dw 302.10(a) and (b), regardless of the type of source or proposed capacity.

(b) The department shall not approve a source unless the applicant owns all the land within the sanitary protective area or controls it by other legal means, such as by recorded easement. If the applicant's control of the sanitary protective area is time-limited, the department's approval of the source shall be equally time-limited.

(c) If a source is approved, the applicant shall maintain the sanitary protective area of the source in a natural state at all times except as necessary for activities necessary for the use and maintenance of the wellhead that do not pose a contamination risk to groundwater.

(d) No underground utilities shall be installed within the sanitary protective area except for conduits for water derived from the source or electrical or communication lines. In specific cases where this requirement imposes unusual constraints on construction, the department shall allow other installations if the applicant demonstrates by clear and convincing evidence that the construction methods and materials proposed to be used will not increase the risk of contamination within the sanitary protective area.

(e) No person shall discharge to the sanitary protective area any drainage prohibited by Env-Dw 302.10(e).

Env-Dw 303.10 Conceptual Hydrogeologic Model.

(a) The applicant shall engage a qualified professional to develop a conceptual hydrogeologic model of the source and its protected area.

(b) The conceptual model shall be:

(1) Developed in accordance with the requirements for preparing a conceptual hydrologic model and potential impact area for large groundwater withdrawals specified in Env-Wq 403; and

(2) Refined based on the results of the source evaluation performed in accordance with Env-Dw 303.14.

Env-Dw 303.11 Preliminary Estimate of the Protected Area.

(a) The protected area for a source that is a well that would have a capacity of equal to or greater than 57,600 gallons in a 24-hour period shall be determined as specified in Env-Dw 302.11, except that "wellhead protection area" shall be replaced with "protected area".

(b) For any other source, the applicant shall engage a qualified professional to develop a preliminary estimate of the protected area based on the conceptual hydrogeologic model developed as required by Env-Dw 303.10.

(c) The qualified professional shall refine the preliminary estimate of the protected area in accordance with Env-Dw 303.20 based on the results of the source evaluation performed in accordance with Env-Dw 303.14.

Env-Dw 303.12 Preliminary Contamination Source and Water Resource and Use Inventories.

(a) The applicant shall complete a preliminary contamination source inventory and a water resource and use inventory within the protected area before the source evaluation required by Env-Dw 303.14 is conducted.

(b) The inventories shall be performed in accordance with Env-Dw 302, except that "wellhead protection area" shall be replaced with "protected area".

(c) The applicant shall map the location of all contamination sources and water resources and uses identified in accordance with (a), above, on a USGS map, and include with the map a table that identifies each information source and all search dates.

(d) The applicant shall describe each contamination source that has potential to affect the source by identifying the type of contamination and the status of any remediation effort(s) undertaken to contain or remove the contamination.

Env-Dw 303.13 Optional Pre-Test Conference.

(a) Department staff responsible for implementing these rules shall, upon request, meet with the applicant and the qualified professional engaged by the applicant to review a detailed proposal of the work to be performed under these rules.

(b) To request a pre-test conference, the applicant shall submit the request to the department in writing and include the following with the request:

(1) A sketch at a scale of approximately one inch equals 100 feet depicting the area and any land uses within 500 feet of the proposed source, with a description of how the site complies with the source location requirements in Env-Dw 303.08;

(2) A description of the conceptual hydrogeologic model developed in accordance with Env-Dw 303.10;

(3) A description of the preliminary estimate of the protected area delineated in accordance with Env-Dw 303.11;

(4) The preliminary contamination source inventory and water resource and use inventory completed in accordance with Env-Dw 303.12; and

(5) A description of the source evaluation, protected area delineation methodology, and contamination source control program to be conducted as required by Env-Dw 303.07.

(c) During the conference, department staff shall provide feedback on the acceptability of the site and proposed approaches under these rules within the limitations of what is known about the site at the time of the conference.

Env-Dw 303.14 Pumping Test or Source Evaluation Required.

(a) For any proposed source that is a well, the applicant shall:

(1) Engage a qualified professional to design a pumping test and water quality sampling program as specified in Env-Dw 302.14 and Env-Dw 302.15, respectively; and

(2) Submit the information required by Env-Dw 302.29(e).

(b) For any proposed source that is not a well, the applicant shall engage a qualified professional to design and implement a source evaluation for the proposed source as specified in:

(1) Env-Dw 303.15, for sources where external force will be used to collect water; or

(2) Env-Dw 303.16, for sources where external force will not be used.

(c) The objectives of the pumping test or source evaluation shall be to gather the information needed to:

(1) Refine the conceptual hydrogeologic model;

(2) Refine the protected area delineation;

(3) Establish the chemical quality of the source; and

(4) Develop, if necessary, a contamination control program.

(d) Alternative source evaluation methods shall be accepted, provided the applicant demonstrates by clear and convincing evidence that the alternative addresses the source evaluation objectives of (c), above, and achieves equivalent or superior results.

(e) Source evaluation methods, procedures, data, laboratory reports, and other supporting documentation shall be presented together with a discussion of, and conclusions drawn from, that information as required by Env-Dw 303.07(f).

Env-Dw 303.15 Source Evaluation for Sources Using External Force. For any source where external force will be used to collect water, the source evaluation shall be conducted in accordance with the pumping test requirements for large community water system wells specified in Env-Dw 302, except as altered by the following:

(a) For a spring water source or artesian water source, the following shall apply:

(1) The source evaluation shall address both the natural high flow conditions and the natural low flow conditions of the source; and

(2) Low flow conditions shall be:

a. Evaluated by conducting the source evaluation during a low flow period; or

b. Predicted using hydrogeologically-valid methods provided that a monitoring program is designed and implemented to evaluate the potential for adverse impacts as described in RSA 485-C:21, V-c;

(b) For a spring where a borehole will be used to collect water, the source evaluation shall include the measurement of flows from the spring's natural orifice at least as often as water levels are measured in the borehole, after the first 10 minutes of initiating and concluding pumping; and

(c) Water quality sampling shall be conducted in accordance with Env-Dw 302, and additional samples shall be collected and analyses performed if necessary to establish a contamination control program in accordance with Env-Dw 303.23.

Env-Dw 303.16 Source Evaluation for Sources Not Using External Force. For any source where no pumping or other external force will be used to collect water, the source evaluation shall be conducted as follows:

(a) The source evaluation shall address both the natural high flow conditions and the natural low flow conditions of the source;

(b) At least 2 monitoring wells shall be placed to meet the objectives of the source evaluation. Additional monitoring wells shall be required when preliminary information indicates they are necessary to meet the objectives of the source evaluation as specified in Env-Dw 303.14(c);

(c) The evaluation shall be conducted for 10 continuous days, as follows:

(1) Monitoring during the first 3 days shall be conducted with no withdrawal of water from the source;

(2) Monitoring from the beginning of day 4 through the end of day 8 shall be conducted while water is withdrawn from the source at the desired permitted production volume; and

(3) From the beginning of day 9 to the end of day 10, recovery monitoring shall be conducted with no withdrawal from the source;

(d) Water collected during the evaluation shall be discharged at a location that ensures the water cannot provide recharge to the source pursuant to a temporary groundwater discharge permit obtained under Env-Wq 402;

(e) The flow rate from the source shall be measured over a period of one minute or less at least twice daily at intervals of approximately 12 hours, using a calibrated flow meter, weir, flume, or similar device;

(f) Water levels in the source and in the monitoring wells shall be measured twice daily, at the same time the flow rate measurements are done;

(g) If the source ceases to flow during the withdrawal period specified in (3)b., above, the time that flow ceases and the time it starts again shall be recorded, and measurement of water levels shall replace flow measurements during any time the source is not flowing;

(h) Weather conditions, including rainfall amounts at the site, shall be recorded throughout the evaluation;

(i) Water levels in any surface water located within 500 feet of the source shall be measured to the nearest 0.01 foot and recorded at least twice daily during the evaluation, at the same time the flow rate measurements are done;

(j) The horizontal distance between each observation well, surface water measurement location, and the source shall be measured to the nearest foot;

(k) The vertical elevation of the observation wells, surface water, and source shall be established to the nearest 0.01 foot and referenced to the National Geodetic Vertical Datum of 1929 or subsequent national datum such as the North American Vertical Datum of 1988;

(l) Water level, flow rate, and date and time of measurement shall be tabulated and plotted;

(m) A regional groundwater flow net shall be constructed which shows flow directions in the horizontal and vertical planes and indicates hydraulic boundaries and recharge sources;

(n) Data collected pursuant to (a) through (m), above, shall be used to refine the protected area at the desired permitted production volume for 180 continuous days without recharge from rainfall; and

(o) Water quality sampling shall be as follows:

(1) A water quality sample shall be taken within the first 2 hours after initiating the evaluation;

(2) A second water quality sample shall be taken at the mid-point of the evaluation;

(3) A third water quality sample shall be taken during the last day of the evaluation;

(4) The samples shall be analyzed by a laboratory that has been accredited to perform drinking water testing in New Hampshire pursuant to Env-C 300 or equivalent standards established by EPA;

(5) The samples collected pursuant to (1) and (2), above, shall be analyzed for volatile organic compounds, iron, manganese, pH, specific conductance, hardness, chloride, sodium, nitrate, radon, and coliform bacteria;

(6) The sample collected pursuant to (3), above, shall be analyzed for radon, 1,4 dioxane, and those contaminants required to be monitored in accordance with Env-Dw 707 through Env-Dw 713; and

(7) Additional samples shall be collected and analyses performed if necessary to establish a contamination source control program in accordance with Env-Dw 303.23.

Env-Dw 303.17 Permitted Production Volume.

(a) The applicant shall propose a permitted production volume based on an analysis of the data derived from the source evaluation required by Env-Dw 303.07(g) and completed as specified in Env-Dw 303.14.

(b) The applicant shall calculate the proposed permitted production volume by applying the natural flow rate or pumping test production rate over 24 continuous hours of operation.

(c) The applicant shall use the proposed permitted production volume to determine the protected area and, if necessary, to develop a potential contamination source control program.

(d) The department shall accept the proposed permitted production volume if it determines, based on the data and documentation submitted by the applicant in support of the proposed permitted production volume, that the data is valid, the calculation was performed correctly, and other applicable requirements are met.

(e) Although the actual rate at which water is withdrawn from an approved source may vary, the permitted production volume shall not be exceeded.

Env-Dw 303.18 Source Classification; Collection from Source.

(a) The applicant shall engage a qualified professional to classify the proposed source as spring water, artesian water, or well water, as follows:

(1) A source shall be classified as spring water only if the water is from an underground formation from which water flows under a natural force to the surface of the earth through a natural orifice;

(2) A source shall be classified as artesian water only if the water is from a well tapping a confined aquifer in which the water level stands at some height above the top of the aquifer and the water does not qualify as spring water; and

(3) A source shall be classified as well water if it does not meet the criteria for classification as spring water or artesian water.

(b) Artesian water may be collected with the assistance of external force to enhance natural underground pressure.

(c) Spring water shall be collected either from the spring itself or through a borehole tapping the underground formation feeding the spring.

(d) Spring water shall not be collected using external force unless the water is from the same underground stratum as the spring, as demonstrated by the following:

(1) Observing and recording a measurable hydraulic connection, using a hydrogeologically-valid method, between the bore hole and the natural spring; and

(2) Collecting and analyzing water quality samples to show that water derived from the borehole is of the same composition and quality and has all the same physical properties, before treatment, as the water that flows naturally to the surface of the earth.

(e) Spring water shall not be collected using an external force if doing so prevents the natural flow of water to the surface of the earth through the spring's natural orifice.

Env-Dw 303.19 Source Classification Statement.

(a) The qualified professional engaged pursuant to Env-Dw 303.18(a) shall prepare a source classification statement that designates the source as spring water, artesian water, or well water.

(b) The classification statement shall include the following:

(1) A statement that the qualified professional understands the definitions of spring water, artesian water, and well water contained in Env-Dw 303.03;

(2) A statement that a hydrogeologic investigation has occurred and documentation has been prepared to demonstrate that the source meets the requirements for the designated classification;

(3) A statement that the documentation supporting the classification has been provided to the applicant; and

(4) The name, title, and qualifications of the qualified professional.

(c) The qualified professional shall sign and date the classification statement, thereby certifying that:

(1) The information provided is true, complete, and not misleading to the knowledge and belief of the signer; and

(2) The signer understands that:

a. The submission of false, incomplete, or misleading information is grounds for:

1. Refusing to accept the classification statement;

2. Revoking any approval that is granted based on the information;

3. Referring the matter to the joint board for potential action against the professional license held by the signer; and

4. If the signer is acting as or on behalf of a listed engineer as defined in Env-C 502.10, debarring the listed engineer from the roster; and

b. The signer is subject to the penalties for making unsworn false statements specified RSA 641:3 or any successor New Hampshire statute.

(d) The applicant shall keep all information regarding source classification provided by the qualified professional and produce this information on request to department representatives.

Env-Dw 303.20 Protected Area Refinement.

(a) The applicant shall refine the preliminary estimate of the protected area for the proposed groundwater source of bottled water at the permitted production volume with respect to no-flow boundaries, surface water connections, existing withdrawals, and any other hydrogeologic influences in accordance with the wellhead protection area refinement methodology specified in Env-Dw 302.22 for large community water system wells, except that "wellhead protection area" shall be replaced with "protected area".

(b) The delineation and supporting evaluations and documentation shall be submitted as required by Env-Dw 303.07(d).

Env-Dw 303.21 Source Protection Program.

(a) The applicant shall establish a source protection program that includes:

(1) Updating the contamination source inventory required by Env-Dw 303.12 and Env-Dw 303.22 at intervals no greater than 3 years;

(2) Sending notification to the owner of each contamination source listed in the inventory within 90 days of source startup and at intervals no greater than 3 years thereafter, which notification shall include:

a. The name, mailing address, and daytime telephone number of the applicant;

b. A statement that the property on which the contamination source is located is in a protected area of a groundwater source of bottled water and thus is considered to have the potential to contaminate the groundwater;

c. A copy of groundwater protection educational material that the department has developed;

d. Notification that any discharge of a regulated contaminant as defined in RSA 485-C:2, reprinted in Appendix B, onto or into the ground or groundwater is prohibited unless it is specifically authorized by a groundwater discharge permit issued pursuant to Env-Wq 402; and

e. The name and daytime telephone number of a contact at the department to whom questions can be directed; and

(3) Establishment of a water quality monitoring well network, when existing contamination sources may pose a significant risk of groundwater contamination.

(b) The applicant shall include a description of the source protection program in the application submitted pursuant to Env-Dw 303.07.

(c) If the source is approved, the owner of the source shall demonstrate ongoing compliance with the source protection program by notifying the department in writing, by letter or email, of the date of the educational mailing program for each round of notifications.

Env-Dw 303.22 Contamination Source and Water Resource and Use Inventory Update and Revision.

(a) The applicant shall update the preliminary inventory completed in accordance with Env-Dw 303.12 if it is more than 90 days old at the time the application is received by the department.

(b) The applicant shall revise the preliminary inventory to reflect any expansion or decrease in the protected area after it is refined in accordance with Env-Dw 303.20.

(c) The applicant shall submit the updated and revised inventory in the application submitted pursuant to Env-Dw 303.07.

Env-Dw 303.23 Contamination Control Program.

(a) The applicant shall establish a contamination control program that minimizes the risk of contamination from all contamination sources.

(b) The contamination control program shall include requirements, including a schedule, for monitoring and any necessary remediation of residual contamination from all known contamination sources identified through the contamination source inventory performed in accordance with Env-Dw 303.12 and Env-Dw 303.22, to ensure that contamination does not reach the groundwater source of bottled water.

(c) The contamination control program shall include collection of water quality samples from new or existing monitoring wells located near potential contamination sources identified through the contamination source inventory performed in accordance with Env-Dw 303.12 and Env-Dw 303.22, when applicable, to ensure that contamination does not affect the groundwater source of bottled water.

(d) A description of the contamination control program and supporting evaluations and documentation shall be provided in the application submitted pursuant to Env-Dw 303.07.

Env-Dw 303.24 Source Design and Construction.

(a) When the new source is a well, the applicant shall:

(1) Engage a New Hampshire-licensed water well contractor to install the well in compliance with applicable rules, currently We 100-800 as adopted by the New Hampshire water well board pursuant to RSA 482-B;

(2) In addition to any construction standards included in (1), above, undertake the following:

a. To prevent surface water from channeling along the well casing, the void area outside the well casing shall be filled with cement grout, bentonite grout, or a cement-bentonite grout mixture to within at least 6 feet of the ground surface from:

1. For bedrock production wells, the bottom of the pilot hole; and

2. For overburden production wells, an appropriate depth determined by the NH-licensed water well contractor based on well design and the type of unconsolidated material encountered when installing the well; and

b. Extend the well casing:

1. At least 18 inches above the ground surface, for wells that are not installed within the 100-year flood zone; or

2. At least 3 feet above the base flood elevation or highest known flood elevation, whichever is higher, for production wells that are installed within the 100-year flood zone; and

(3) Submit a well completion report prepared in accordance with applicable requirements, currently We 800.

(b) When the source is not a well, the applicant shall submit a design and specification plan for the water collection structure to the department for review prior to construction. The department shall approve the design if the applicant demonstrates that the structure will protect the source against contamination from surface sources of pollutants.

Env-Dw 303.25 Approval of New Sources.

(a) Upon receipt of an application submitted pursuant to Env-Dw 303.07, the department shall review the application to determine whether all required information and materials are included.

(b) If the application does not contain all of the required information and materials, the department shall notify the applicant in writing of:

(1) What information and materials are missing;

(2) A reasonable deadline for submitting the information and materials, established based on the type and quantity of information and materials needed; and

(3) The consequences of not providing the specified information and materials by the specified deadline, namely that the application will be denied.

(c) If the applicant does not provide the missing information and materials by the deadline specified in the notice sent pursuant to (b), above, or such extended date that the applicant and the department have agreed to, the department shall deny the application and notify the applicant in writing of the denial and the basis therefor.

(d) Subject to (e), below, the department shall approve the source and notify the applicant and the department of health and human services that the source has been approved if it determines that:

(1) The application contains all the required information;

(2) The department concurs with the source classification designation prepared in accordance with Env-Dw 303.19; and

(3) All applicable requirements of Env-Dw 303 have been met.

(e) The application shall be denied if a contamination source is present in the protected area and the information submitted with the application does not demonstrate that the groundwater source of bottled water will be protected from the contamination source.

(f) For a withdrawal designated as a large groundwater withdrawal, approval by the department shall be contingent on compliance with notification, impact assessment, and mitigation requirements pursuant to RSA 485-C:21, and permitting requirements of Env-Wq 403.

(g) The approval shall include such conditions for supplemental assessments, sampling, monitoring, record keeping and reporting as are necessary to verify compliance with these rules.

(h) Source approval shall expire 5 years after issuance if the source has not started producing bottled water within that time.

Env-Dw 303.26 Increasing the Permitted Production Volume.

(a) Withdrawal from a groundwater source of bottled water shall not exceed the permitted production volume determined in accordance with Env-Dw 303.17.

(b) Any request for increasing the permitted production volume shall require the submission of a complete application as would be necessary for approval of a new source.

Env-Dw 303.27 Sampling Requirements for New Groundwater Sources of Bottled Water. The supplier of water from a new groundwater source of bottled water shall sample and test in accordance with He-P 2105.03.

Env-Dw 303.28 Waivers. Any applicant who wishes to request a waiver of specific rules outlined in this part shall request the waiver in accordance with Env-Dw 202.

Env-Dw 303.29 Suspension or Revocation of Approvals.

(a) For purposes of this section, “approval” means an issued permit or waiver, as applicable.

(b) Upon finding that good cause as specified in (i), below, exists to suspend or revoke an approval, the department shall initiate an action pursuant to RSA 541-A:30, II, RSA 541-A:31, and the provisions of Env-C 200 applicable to adjudicative proceedings to suspend or revoke the approval.

(c) The notice issued to initiate the action shall comply with RSA 541-A:31, III.

(d) The department shall suspend the approval if the department determines, as a result of the proceeding initiated under (b), above, that:

(1) The project would conform to applicable requirements if the deficiency were corrected; and

(2) If the basis for the action is that the information on which the approval was issued was incorrect, incomplete, or misleading:

a. The deficient information was submitted inadvertently or negligently; and

b. The approval would have been issued if correct, complete, and not misleading information had been submitted originally.

(e) If the department suspends the approval, the decision issued pursuant to (h), below, shall:

(1) Specify a reasonable time in which the person to whom the approval was issued may correct the deficiencies which formed the basis for the suspension, established based on the type and quantity of deficiencies and the information and materials needed to correct them; and

(2) Notify the person to whom the approval was issued that if the deficiencies are not corrected within the time specified, the approval will be revoked.

(f) A decision to suspend an approval pending receipt of adequate and correct information shall not be considered a final decision from which an appeal may be taken.

(g) The department shall revoke the approval if the department determines, as a result of the proceeding initiated under (b), above, that:

(1) The project cannot be made to conform to applicable requirements; or

(2) If the basis for the action is that the information on which the approval was issued was incorrect, incomplete, or misleading:

a. The permit holder submitted deficient information with the intent to mislead or to avoid one or more requirements of the statute or rules; or

b. The approval would not have been issued if correct, complete, and not misleading information had been submitted originally.

(h) The department shall issue a written decision to the person to whom the approval was issued. If the approval is suspended or revoked, the decision shall specify the reason(s) for the decision and that the decision may be appealed as an enforcement decision in accordance with RSA 21-O:14.

(i) Good cause to suspend or revoke an approval shall include the following:

(1) The information on which the approval was based was incorrect, incomplete, or misleading;

(2) The project is not in compliance with the terms of the approval, including the plans approved and made part of the approval; or

(3) The person to whom the approval was issued is a chronic non-complier as defined in Env-C 209.01(b).

APPENDIX A: STATUTES IMPLEMENTED

Rule Section(s)	State Statute(s) Implemented
Env-Dw 303.01 through Env-Dw 303.27	RSA 485:1, II(g)
Env-Dw 303.28	RSA 541-A:22, IV
Env-Dw 303.29	RSA 541-A:30, II

APPENDIX B: STATUTORY DEFINITIONS

RSA 482-A: 2

X. "Wetlands" means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

RSA 485:1-a

XIII. "Person" means any individual, partnership, company, public or private corporation, political subdivision or agency of the state, department, agency or instrumentality of the United States, or any other legal entity.

XVIII. "Wellhead protection area" means the surface and subsurface area surrounding a water well or wellfield, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield.

RSA 485-A:2

XIV. "Surface waters of the state" means perennial and seasonal streams, lakes, ponds, and tidal waters within the jurisdiction of the state, including all streams, lakes, or ponds bordering on the state, marshes, water courses, and other bodies of water, natural or artificial.

RSA 485-C:2

VIII. "Groundwater" means subsurface water that occurs beneath the water table in soils and geologic formations.

IX-a. "Large groundwater withdrawal" means any withdrawal from groundwater of 57,600 gallons or more of water in any 24-hour period at a single property or place of business except withdrawals associated with short-term use.

XIII. "Regulated contaminant" means any physical, chemical, biological, radiological substance or other matter, other than naturally occurring substances at naturally occurring levels, in water which adversely affects human health or the environment.

XVII. "Well" means a hole or shaft sunk into the earth to observe, sample, or withdraw groundwater.